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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,810	08/29/2001	Osamu Itou	500.40583X00	4557

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EXAMINER

SEFER, AHMED N

ART UNIT PAPER NUMBER

2826

DATE MAILED: 01/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/940,810

Applicant(s)

ITOU ET AL

Examiner

A. Sefer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-6 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 7-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed October 8, 2003 have been fully considered but they are not persuasive.
2. Applicants argue that the art rejection of independent claim 1 does not teach or suggest all the elements either explicitly or inherently. Specifically, Applicants claim that Kubo et al (JP 2000-29010) fails to teach an elliptical polarization.
3. In response to Applicants' argument that Kubo et al fails to teach a liquid crystal layer 5 and a liquid crystal driving unit which are held sandwiched between said facing substrates, and polarizer 9 and phase plate 10 which are located on an upper side of a substrate and polarizer 6 and phase plate 7 which are located on a lower side of substrate, said polarizer 6 and said phase plate 7 which are located on a lower side of substrate forming an elliptical polarizer (see equivalent US PG-Pub 2001/0055082, page 13, par. 0220).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kubo et al. (JP 2000-29010).

Kubo et al disclose in figs. 1-3 a liquid crystal display apparatus, comprising: a pair of opposed boards 1 and 2, a liquid crystal layer 5 and a liquid crystal driving unit which are held in being sandwiched between said facing substrates, and polarizer and phase plates 6/9 and 7/10 which are located on an upper side and on a lower side of said facing substrates, respectively, wherein a pixel of said liquid crystal display apparatus includes a reflection display unit 3 whose reflections applied voltage characteristic is a normally-closed type and a transmission display unit 8 whose layer thickness is thicker than that of a liquid crystal layer constituting said reflection display unit, said polarizer and said phase plate located on said lower side of said facing substrates forming an elliptical polarizer.

6. Claims 1 and 4-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Kubo et al. US Patent No. 6,295,109.

Kubo et al disclose (figs. 1-3 and 8, col. 13, lines 41-56 and col. 34, lines 53-60) a liquid crystal display apparatus, comprising: a pair of opposed boards 1 and 2, a liquid crystal layer 5 and a liquid crystal driving unit which are held in being sandwiched between said facing substrates, and polarizer and phase plates 6/9 and 7/10 which are located on an upper side and on a lower side of said facing substrates, respectively, wherein a pixel of said liquid crystal display apparatus includes a reflection display unit 3 whose reflections applied voltage characteristic is a normally-closed type and a transmission display unit 8 whose layer thickness is thicker than that of a liquid crystal layer constituting said reflection display unit, said

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polarizer and said phase plate located on said lower side of said facing substrates forming an elliptical polarizer.

In regards to claims 4-6, Kubo et al disclose (see fig. 3 and col. 29, lines 1-12) first and second lower-side phase plates wherein second lower-side phase plate being larger than first lower-side phase plate (as in claim 5). As to the recited ranges, the specification contains no disclosure of either the critical nature of the claimed arrangement or any unexpected results arising therefrom. Where patentability is said to be based upon particular chosen dimensions or upon another variable recited in a claim, the applicant must show that the chosen dimensions are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

Allowable Subject Matter

7. Claims 2, 3 and 7-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Okamoto et al. US PG-Pub 2003/0067570 disclose an LCD including a polarizer and a phase retarder forming an elliptical polarizer (see par. 0201).

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Sefer whose telephone number is (703) 605-1227.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (703) 308-6601.

A handwritten signature in black ink, appearing to be 'A. Sefer', is written over the signature line.

ANS

December 21, 2003